

EXHIBIT A-1

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

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VALERIE BAINBRIDGE, : CIVIL ACTION
:
vs. :
:
ACME MARKETS, INC. : NO. 09-4683

- - -

April 20, 2010

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Oral deposition of VALERIE
BAINBRIDGE, taken pursuant to Notice, was held at
Buchanan, Ingersoll & Rooney, Two Liberty Place,
50 South 16th Street, 32nd Floor, Philadelphia,
Pennsylvania, commencing at 10:15 a.m., on the
above date, before DIANNE NAULTY, a
Federally-Approved, Registered Professional
Reporter and Notary Public in and for the
Commonwealth of Pennsylvania.

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VERITEXT NATIONAL COURT REPORTING COMPANY
MID-ATLANTIC DIVISION
1801 Market Street - Suite 1800
Philadelphia, Pennsylvania 19103

1 Valerie Bainbridge

2 with us so he did graduate, and then he's just
3 stayed with us because our basement is finished
4 off and he lives down there.

5 Q. He must have been in high school,
6 is that correct, when he first came to live with
7 you?

8 A. Yes.

9 Q. What high school did you go to?

10 A. Owen James Roberts.

11 Q. Did you claim him as a dependent at
12 any time on your income tax returns?

13 A. Yeah.

14 Q. When you were employed by Acme,
15 were you a member of a union?

16 A. Yes.

17 Q. What union was that?

18 A. United Food and Commercial Workers
19 Union.

20 Q. Do you know which local?

21 A. When I left, it was 27. At one
22 time it was 1357, I believe.

23 Q. Is that the same union, it just
24 changed names?

25 A. Yes.

1 Valerie Bainbridge

2 Q. Other than UFCW Local 27, and
3 whatever it was called prior to the local change,
4 had you been a member of any other union?

5 A. No.

6 Q. I understand you have been employed
7 by Acme for a long time. I'm going to, in the
8 interest of making sure we get to everything we
9 need to get to today, I'm going to start with your
10 employment at West Chester. Okay?

11 A. Okay.

12 Q. If at any time today you're
13 confused by the timeframe of my questions, I'll
14 try to be clear, but if you ever are confused by
15 that, let me know so we can clarify that.

16 A. Okay.

17 Q. How was it that you became employed
18 at the West Chester store?

19 A. The store was just being built. It
20 was a new store. They were putting bids up for
21 full-time positions. I put in for the service
22 counter, and I got that position, so I was working
23 part time, and I thought it was, you know, good to
24 go to full time, and I did get the job.

25 Q. What job did you get?

1 Valerie Bainbridge

2 A. Service counter.

3 Q. What was your title in that job?

4 A. It wasn't really a title. It was
5 just a service counterperson. There was no title.
6 It wasn't like a head cashier or, you know, frozen
7 food or anything.

8 Q. Was that the position you held when
9 you first went to the West Chester store?

10 A. Yes.

11 Q. Did you have to bid for that
12 position?

13 A. Yes.

14 Q. Who was the store director at the
15 time you first went to West Chester?

16 A. Ron Bresinger.

17 Q. Can you place in time when you went
18 to West Chester?

19 A. I went, I believe it was, August,
20 and they opened in September, because I needed
21 training on the photo lab.

22 Q. Is this the year 2004?

23 A. I believe so.

24 Q. What other positions did you hold
25 at West Chester?

1 Valerie Bainbridge

2 A. West Chester, yeah.

3 Q. When did you become the office
4 coordinator?

5 A. Officially, I think it was December
6 17th of '07.

7 Q. I'm going to show you some
8 documents today. Some of them my questions will
9 be very general. Other documents we might spend
10 more time on. But if at any time I start talking
11 and you have not finished reading the document or
12 you need more time to read it, just let me know.
13 It's hard to judge how fast people read, et
14 cetera.

15 A. Okay.

16 MS. MALLOY: Let's mark this as
17 the first exhibit.

18 - - -

19 (Job Request Form was marked as
20 Defendant's 1 for identification by the
21 court reporter.)

22 - - -

23 BY MS. MALLOY:

24 Q. Defendant's Exhibit 1 is a Job
25 Request Form. Is that your signature?

1 Valerie Bainbridge

2 A. Yes.

3 Q. Is this the Job Request Form you
4 completed to bid for the office coordinator
5 position in West Chester?

6 A. Yes.

7 Q. Under the middle section that says,
8 briefly describe your qualifications for the job,
9 you say you had 20 years night office.

10 Could you describe that in more
11 detail for me?

12 A. It was basically balancing the
13 checkers' tills, doing the deposits, balancing the
14 safe. Sometimes I would also be, at the same
15 time, the front end, which would mean send people
16 on their breaks, lunches, tell them what time to
17 go home. That kind of thing.

18 Q. At what store or stores did you
19 have 20 years of night office experience?

20 A. That was at West Goshen.

21 Q. Two years full time courtesy booth
22 and OC backup. What does that refer to?

23 A. That would be at the West Chester
24 store. I was full time for two years there. I
25 worked at the courtesy booth and I was also the

1 Valerie Bainbridge
2 coordinator backup.

3 Q. How many days a week did you
4 perform the office coordinator job as the backup?

5 A. Mary didn't work Sundays, and
6 Wednesday was her day off, so it was normally two
7 days.

8 Q. Did you cover for her during any
9 vacations or holidays?

10 A. Yes.

11 Q. Did you have a good relationship
12 with Mary?

13 A. Yes.

14 Q. How is it that you learned to be
15 the office coordinator backup?

16 A. When we first went to West Chester,
17 they had one system, and she taught me that, and
18 it wasn't long after that that they switched to
19 Peoplesoft, and it was different, so she had to
20 show me how to do that.

21 Q. How did you learn how to be the
22 backup?

23 A. She just taught me as she was doing
24 things. That's how I learned, by her showing me
25 what she was doing.

1 Valerie Bainbridge

2 MS. MALLOY: Let's mark this as
3 the next exhibit.

4 - - -

5 (Store Work Rules was marked as
6 Defendant's 2 for identification by the
7 court reporter.)

8 - - -

9 BY MS. MALLOY:

10 Q. Defendant's Exhibit 2 is titled
11 Store Work Rules. Take as long as you need. My
12 question will be have you ever seen this before.

13 A. Yes, I have seen this before.

14 Q. Did you receive a copy of the Store
15 Work Rules while you were employed at Acme?

16 A. Yes.

17 Q. Did you have a copy to take home?

18 A. Yes.

19 MS. SCHNEIDER: I just want to
20 object. Do you mean a copy to take home
21 while she was employed with Acme or in
22 connection with the litigation?

23 MS. MALLOY: While she was
24 employed.

25 Do you understand my question?

1 Valerie Bainbridge

2 THE WITNESS: Yes.

3 MS. MALLOY: Let's mark this as
4 the next exhibit.

5 - - -

6 (Company Retail Policies was
7 marked as Defendant's 3 for identification
8 by the court reporter.)

9 - - -

10 BY MS. MALLOY:

11 Q. Exhibit 3 is entitled Company
12 Retail Policies. The last few pages say
13 Albertsons slash Acme Retail Policies Addendum.

14 My question is, did you receive a
15 copy of this document while you were employed by
16 Acme?

17 A. I would say yes.

18 Q. It looks familiar to you?

19 A. Yeah.

20 Q. And how about the last couple of
21 pages in the different font, do they look familiar
22 to you?

23 A. I don't know that I specifically
24 saw this.

25 Q. You're referring to the last three

1 Valerie Bainbridge

2 A. Well, I know that's how they want
3 people to be treated.

4 Q. How did you learn that?

5 A. It's just something everybody has
6 always known while they worked at Acme. They want
7 people to be treated right.

8 Q. Did you ever hear anyone refer to
9 the courtesy, dignity and respect policy?

10 A. No.

11 Q. Did you ever hear anyone refer to a
12 1-800 hotline number?

13 A. Yes, I did hear that.

14 Q. And tell me what you remember about
15 the 1-800 number.

16 A. I don't remember exactly how I knew
17 about it. Maybe another employee told me.
18 Probably another employee told me that they had a
19 hotline.

20 Q. What was your understanding about
21 the hotline?

22 A. I guess if you saw someone doing
23 something wrong, that I should call them and that
24 you wouldn't be penalized for it.

25 Q. Anything else that you remember

1 Valerie Bainbridge

2 being told about the hotline?

3 A. No.

4 MS. MALLOY: Let's mark this as
5 the next exhibit.

6 - - -

7 (Notice of Equal Employment
8 Opportunity Policy was marked as
9 Defendant's 5 for identification by the
10 court reporter.)

11 - - -

12 BY MS. MALLOY:

13 Q. Defendant's Exhibit 5 is called
14 Notice Equal Employment Opportunity Policy. Was
15 there a bulletin board in the employee lounge at
16 the West Chester store?

17 A. Yes, there was.

18 Q. Have you seen the document which is
19 Exhibit 5?

20 A. Yes.

21 Q. Was that posted on the bulletin
22 board?

23 A. Yes.

24 In regard to my problem --

25 MS. SCHNEIDER: I'm sorry. Is

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Valerie Bainbridge

employed, that there was an ethics and compliance policy?

A. No.

Q. Take a look at this document, six. Is anything in it familiar to you, while you were employed?

A. And your question was?

Q. Does any of it look familiar to you? I know your testimony was that you don't remember seeing the booklet.

A. Well, the booklet, I guess, basically says that you're supposed to follow Acme's policy, which, I guess, everybody knows that. But I don't really recall seeing the booklet itself.

Q. Okay. I understand that.

MS. MALLOY: Let's mark this as the next exhibit.

- - -

(Store Work Rules and Dress and Appearance Guidelines was marked as Defendant's 7 for identification by the court reporter.)

- - -

1 Valerie Bainbridge
2 else is or some description for me?

3 MS. SCHNEIDER: I'm sorry. Did we
4 establish what documents she had?

5 MS. MALLOY: I don't want you to
6 coach the witness.

7 We can do it either way. I asked
8 you what you got rid of.

9 THE WITNESS: I probably had this
10 dress and appearance guideline. I didn't
11 keep too many things.

12 BY MS. MALLOY:

13 Q. How did you decide what to keep and
14 what to get rid of?

15 A. I guess I kept things that were
16 kind of personal, things about my job that I
17 liked, and I guess the rest I felt I didn't need
18 anymore.

19 Q. What documents did you have then?
20 What documents did you have when you left Acme?

21 A. Really, just probably the union
22 handbook and maybe the dress code, and, like I
23 said, those Trumpeter magazines. I didn't really
24 have too many documents.

25 Q. Did you take a lot of documents

1 Valerie Bainbridge

2 home regarding other employees?

3 A. I did take things home near the end
4 when I was having problems. I took things home to
5 prove that I was doing things right and that other
6 people were doing things and nothing happened to
7 them for it.

8 Q. When did you start taking those
9 type of documents home?

10 A. I believe it started after
11 September the 6th when they asked me to step down.

12 Q. Of the types of documents that you
13 started taking home after September 6th, did you
14 discard any of those?

15 A. I don't believe I did, no.

16 Q. We'll talk about them later.

17 MS. MALLOY: Let's mark this as
18 the next exhibit.

19 - - -

20 (Time Clock Policy was marked as
21 Defendant's 8 for identification by the
22 court reporter.)

23 - - -

24 BY MS. MALLOY:

25 Q. Defendant's 8 is called Time Clock

1 Valerie Bainbridge

2 Policy. Is that your signature?

3 A. Yes.

4 Q. And did you receive a copy of this
5 policy to take home?

6 A. Yes.

7 Q. The documents that you took home
8 during the course of your employment with Acme,
9 where did you keep them?

10 A. In a desk in the basement.

11 Q. Have you given everything that's
12 left to your lawyers?

13 A. Yes. Like I said, I had pretty
14 much gotten rid of everything when I left.

15 Q. And why did you get rid of
16 everything when you left?

17 A. I didn't think I needed them
18 anymore because I wasn't working there.

19 Q. At the time that you were employed,
20 though, did you contact the EEOC to possibly
21 pursue some kind of discrimination claim?

22 A. Yes.

23 Q. When you got rid of them, what did
24 you do with these documents?

25 A. I guess I just threw them out.

1 Valerie Bainbridge

2 MS. MALLOY: Let's mark this as
3 the next exhibit.

4 - - -

5 (Time Clock Policy was marked as
6 Defendant's 9 for identification by the
7 court reporter.)

8 - - -

9 THE WITNESS: By documents I guess
10 you're referring to these type of things,
11 right?

12 MS. MALLOY: I'm referring to
13 whatever you had at home.

14 THE WITNESS: Well, I didn't throw
15 out the things that I had brought
16 pertaining to the discrimination. You
17 know, proving other people did things
18 wrong, I kept those things.

19 BY MS. MALLOY:

20 Q. Is there anything that you already
21 testified to that describes your process of what
22 you kept and what you threw out?

23 A. I basically threw out, like,
24 handbooks or union, dress code, things like that
25 that I didn't need.

1 Valerie Bainbridge

2 Q. Time clock policies?

3 A. I don't know if I still had that.
4 I don't think I did.

5 Q. How much stuff did you throw out?

6 A. I only had a few things. Like I
7 said, I basically kept the better things.

8 Q. That was your opinion, that they
9 were the better things.

10 A. Yeah.

11 Q. When you say the Trumpeter said you
12 had 25 years, or that a friend of yours did, or a
13 new store opening that you were at, things like
14 that.

15 A. Yes.

16 Q. Exhibit 8 is dated 3/9/95 and the
17 other one is dated November 6, '96.

18 A. That's my signature.

19 Q. That's your signature on Exhibit 9?

20 A. Correct.

21 Q. And is this a document that you
22 took home at some point during your employment?

23 A. I would say yes.

24 Q. And did you feel like you had an
25 understanding of the time clock policy?

1 Valerie Bainbridge

2 A. Yes.

3 Q. Did you attend any training during
4 which the time clock policy was explained?

5 A. I don't remember any training. I
6 do remember we got a new type of time clock and
7 they showed us how to use it.

8 Q. Can you put that in a timeframe?

9 A. I don't know when that was. I may
10 have still been at West Goshen. I probably was at
11 West Goshen.

12 Q. Did you ever see a video or a
13 broadcast on the time clock policy?

14 A. I don't recall seeing that, no.

15 Q. Have you reviewed the video that we
16 gave to your lawyer?

17 A. Yes.

18 Q. Do you remember seeing that before?

19 A. No. I watched it and I do not
20 remember seeing it.

21 Q. Who, if anybody, told you about the
22 time clock policy? I'm not referring to the
23 documents that you signed.

24 A. No one really talked to me about
25 it. I mean, I got these papers and signed them,

1 Valerie Bainbridge

2 A. I believe she worked at other
3 stores as a director.

4 Q. Why do you believe that?

5 A. She was either a co or a manager.
6 I'm not sure which. When she first came, I said,
7 Martha, I'm newer at the office coordinator job.
8 She said, that's all right because we'll work
9 together.

10 Q. She told you that when she came to
11 West Chester?

12 A. Yes.

13 Q. This is the one that is 11. So 11
14 is the Counseling Conference Memo. It's dated
15 August 2nd, 2007. Is that your signature?

16 A. Yes.

17 Q. What were your duties with respect
18 to time card modification slips?

19 A. I was taught by Mary Kay, the
20 office coordinator previous to me, that if there
21 was any change in someone's punch, that you had to
22 fill out the time card slip, which I did. I kept
23 them, just as Mary did, at the service counter
24 desk. When the checks came in, you would paper
25 clip that to the person's check, and then when

1 Valerie Bainbridge

2 they wanted to pick their check up, they had to
3 sign the form.

4 Q. Sign the modification slip?

5 A. Yes. After they sign these, I
6 would put them in a three-ring binder in the
7 office. I was never asked at any time by three of
8 my managers to bring those office slips to them,
9 never. And then all of a sudden Martha gives me
10 this write-up because I wasn't doing it. This
11 non-authorized overtime --

12 Q. Let's stop -- I'll give you a
13 chance to describe that in a second.

14 A. Okay.

15 Q. Prior to August 2nd of '07, did you
16 give the time card modification slips to a manager
17 to approve?

18 A. No. I was never told to. They
19 were there. If they wanted to, all they had to do
20 was ask me, explain it to me, Val, I would like to
21 have these. It was never done.

22 Q. Under what circumstances did a time
23 card modification slip have to be completed?

24 A. It was supposed to, the way I
25 understood it from Mary Kay, was just to be done

1 Valerie Bainbridge

2 if there was a change. Say someone didn't punch
3 in in the morning and then you would call them and
4 say, what time did you come in, and they would say
5 seven o'clock, and then you would put that in and
6 you would have to write the form out. Then Kim
7 Walsh said to me, I want a time card modification
8 slip made out for everything, if a person is late,
9 if they leave early, everything. I mean, I was
10 writing a stack of these every day.

11 Q. When did Kim Walsh come to West
12 Chester?

13 A. Kim was there when Mike Jones was
14 there. I don't know exactly what timeframe, but
15 she was there when Mike was there.

16 Q. Did she come after you?

17 A. I believe she was probably there
18 when the store opened. I think she might have
19 been the first co.

20 Q. So prior to this August 2nd of '07
21 warning, you did not give the time card
22 modification slips to a manager to approve. Is
23 that correct?

24 A. Right.

25 Q. You kept them in a binder in your

1 Valerie Bainbridge

2 Q. At the time of this August 2nd, '07
3 warning, did you have any idea one way or the
4 other what the company's policy was on whether
5 time card modification slips had to be signed by
6 management?

7 A. I just knew that I was to make them
8 out, and Mary Kay did not tell me that I was to
9 give them to a manager, and I did what she did. I
10 kept them at the desk for the employees to sign
11 and then I put them in a three-ring binder.

12 Q. Do you believe it was age
13 discrimination for Ms. Thourley to tell you to
14 give her the slips to be signed?

15 A. No. That was her right to ask me
16 for those, and I probably should have been doing
17 it, but I was never told to. What I feel is age
18 discrimination is I feel this is just all a paper
19 trail to try to get rid of me.

20 Q. And I'll give you as much time
21 today as you need to explain that to me, but let's
22 try to do it chronologically.

23 Up until this point, August 2nd of
24 '07, is there anything other than this warning,
25 which is Exhibit 11, that you believe was age

1 Valerie Bainbridge

2 A. I would say they were because
3 Martha had asked me in August. So I would say
4 they were.

5 Q. And then prior to Exhibit 11, the
6 August 2nd warning, prior to the warning, your
7 practice was to not have the time card
8 modification slip signed by the manager. Is that
9 correct?

10 A. Right. But I don't know if she
11 ever signed them because I would give them to her,
12 but I don't know what happened to them after that.

13 Q. Okay. I'm back on 11 now. The
14 second incident says, no unauthorized overtime
15 unless management approves.

16 Can you tell me what that was
17 about?

18 A. That was on Monday the 30th. The
19 system crashed, and I had absolutely no figures to
20 balance the store. I called the help desk. I
21 kept getting the answering machine saying the box
22 is full. Finally, later in the day, I got a hold
23 of them and left a message. In the meantime, I
24 was going through all of the records that I could
25 and manually filling in what I could, and I had

Valerie Bainbridge

1 just about most of it done. I was done two
2 o'clock that day. Around 10 of 2:00 the help desk
3 called and I told them what my problem was and
4 they walked me through the rest of the things that
5 I needed to complete that day. I punched out
6 around 2:30, so that made me a half hour late.
7 Martha, when she found this out, wrote this and
8 said to me, I should have called the help desk and
9 told them to call back tomorrow.
10

11 Q. Okay.

12 A. I felt that I shouldn't -- I guess
13 I felt that I didn't need to call her and say,
14 Martha, I need to get these figures to finish for
15 the day, can I talk to the help desk. I just felt
16 that I needed to do this, and I did it, and on
17 11/5 --

18 Q. What year are you talking about?

19 A. '07. I was on a personal holiday
20 and the same thing happened to Betty Tackett, who
21 was my backup. At that time, Martha told her,
22 take all the time you need and I will even get
23 Dave Rzucidlo from Granite Run to come help you.
24 So I was written up for a half hour and Betty was
25 allowed six hours of overtime for the same thing.

1 Valerie Bainbridge

2 MS. MALLOY: I don't think she
3 answered.

4 THE WITNESS: I feel she didn't
5 want me in the office because I was too
6 old. She felt I couldn't do computers.
7 When she asked me to step down, I said I
8 did what she said. I did right. I have
9 proof that I did it right. Kim told me
10 that Martha wanted me to step down and that
11 if I didn't do it, they were going to write
12 me up until they got me fired.

13 MS. MALLOY: And we'll talk about
14 that. I told you we'll try to do it
15 chronologically.

16 BY MS. MALLOY:

17 Q. Why did you believe Martha didn't
18 want you in the office, because you were too old?

19 A. I think she felt I wasn't computer
20 literate, that she felt that the young kids have
21 it in school all day long and they pick it up
22 quick. She did like Katlin. She very much liked
23 Katlin and Katlin was very good on doing all kinds
24 of fancy stuff on that computer. It's the only
25 thing I can really figure.

1 Valerie Bainbridge

2 Q. You testified to one comment that
3 Martha made to you about computers.

4 A. Yes.

5 Q. Could you put that in a timeframe
6 for me?

7 A. That was when they had the
8 interviews for -- there were supposed to be three
9 girls. Only two showed up. It was the interview
10 for my job. I was in Martha's office, and she
11 said, I guess to make me feel good, that I could
12 maybe learn how to do the schedule and I could do
13 the schedule for her. At that time, she said that
14 younger people are brought up on the computers and
15 older people have a harder time, and she said,
16 even I do.

17 Q. Referring to herself?

18 A. Yes.

19 Q. Now, if Martha were to replace you
20 in your office coordinator position, that position
21 would have to be bid through the union procedures.
22 Correct?

23 A. Right. I think they were training
24 Michelle Moore at Granite Run for a year. I think
25 maybe they were planning on putting her in there.

1 Valerie Bainbridge
2 marked as Defendant's 13 for identification
3 by the court reporter.)

4 - - -

5 BY MS. MALLOY:

6 Q. Exhibit 13 is a Counseling
7 Conference Memo and the date is August 21st, 2007.

8 Is that your signature?

9 A. Yes.

10 Q. Were you presented with this
11 document?

12 A. Yes, I was.

13 Q. And who was there?

14 A. It was Martha, Kim Carol, the union
15 rep, myself.

16 Q. On Exhibit 11, which is the August
17 2nd, 07 counseling conference, were you presented
18 that in person as well?

19 A. Yes.

20 Q. Who was at that meeting?

21 A. The union rep and Martha and I.

22 Q. Do you remember which union rep?

23 A. Kim Carol.

24 Q. How did you get along with the
25 union reps?

1 Valerie Bainbridge

2 A. Kim was very friendly, very nice.
3 I didn't really associate a lot with people. I
4 came to work and did my job and went home. I
5 wasn't in any clicks. But, I mean, she was very
6 friendly and very nice.

7 Q. How about Carol Waite, she was the
8 other union rep?

9 A. I didn't really have any
10 relationship with her until this started.

11 Q. So we're looking at Exhibit 13.
12 Can you tell me, to the best of your recollection,
13 what happened at the meeting in which you received
14 this memo?

15 A. Well, Martha said that I didn't do
16 payroll right. She said that I wasn't paying
17 department heads correctly when they filled in for
18 people on vacation. I knew how to do this, and I
19 did it -- there's various department heads that
20 will tell you that they were paid correctly. The
21 only time people didn't get paid right, in my
22 opinion, is when Kim Walsh would make up the
23 schedule. When you make up the schedule, you put
24 in there, deli manager, say, and if you did not
25 put in deli manager in there, that person would

1 Valerie Bainbridge

2 A. Well, she said some associates
3 weren't paid. Like before, no one came to me and
4 said they didn't get paid. So at this time they
5 mention this time-off request form. When I was
6 trained by Mary Kay, she just showed me, you look
7 at the schedule and it says Jane wants a vacation,
8 Tom wants a PH. I would go down the line and
9 write everybody down what they needed and post
10 that next to the computer so when the day came for
11 me to put in vacations and personals, I would have
12 it. Then Kim said to me, you should go by the
13 request-off form, and I told her I didn't know
14 anything about a request-off form, and she,
15 Martha, made arrangements for Dave Rzucidlo from
16 Granite Run to come help me with this. So he
17 showed me how to pull this form up. So after
18 that, I would do it. And they didn't always
19 match. The request-off form might say, Jane wants
20 a vacation, and over on the schedule she wouldn't
21 be scheduled for a vacation, or she would be
22 scheduled for a personal holiday when she wanted a
23 vacation. They never -- so no matter which I
24 followed, it was going to be wrong. You know, it
25 was like, if I followed this form, I might be

1 Valerie Bainbridge

2 Q. Did you talk to Kim about personal
3 things?

4 A. Yeah, I think so.

5 MS. MALLOY: Let's go off the
6 record.

7 - - -

8 (Whereupon, the deposition
9 recessed.)

10 - - -

11 MS. MALLOY: We have stipulated
12 between counsel that we will consider
13 conversations between witnesses and counsel
14 to be attorney/client privilege which take
15 place at breaks during the deposition.

16 BY MS. MALLOY:

17 Q. Did you file any grievance with
18 respect to Defendant's Exhibit 13?

19 A. No, I didn't file a grievance, but
20 Kim Carol, the union rep, did tell Martha that she
21 didn't think that these were fair.

22 Q. What are you referring to when you
23 say "these"?

24 A. These write-ups. She gave me three
25 on the same day.

1 Valerie Bainbridge

2 Q. Right now we're looking at Exhibit
3 13.

4 A. Yes.

5 Q. With respect to 13 --

6 A. Yeah, she felt that the write-ups
7 weren't fair.

8 Q. Were there three write-ups on
9 August 21st?

10 A. No. They were on 11/3 or four.

11 Q. Did you file any grievance with
12 respect to Defendant's Exhibit 11?

13 A. No. I have never really dealt with
14 the union. I never had a problem, so I guess I
15 didn't really realize that I was supposed to go
16 and grieve things. You know, I just figured, time
17 would go on and that it would pass.

18 Q. Did Kim Carol make any comments to
19 you with respect to 13?

20 A. No, I don't think so. Not
21 especially. I think it was more the next set.

22 Q. Okay. I'll give you an opportunity
23 to talk about that.

24 A. In thinking about it, where it says
25 about people being paid personals and vacation

1 Valerie Bainbridge

2 days.

3 Q. You're looking at 13?

4 A. Yes.

5 Q. Okay.

6 A. There were two instances, Ryan
7 McQuiston (ph), who was the grocery manager, he
8 was on the schedule on a Saturday to work 8:00 to
9 4:30 and he didn't punch in that day, so there was
10 nothing about vacation, so I assumed he was out
11 sick. So he had complained because he didn't get
12 paid for it, but that wasn't my fault.

13 Q. So he was supposed to --

14 A. He wanted a vacation day that
15 day --

16 Q. But you put him in sick?

17 A. Yes. So he didn't get paid. The
18 schedule said 8:00 to 4:30, no punches. So
19 there's 50-some people in the store so I don't
20 know who worked the day before, so I just thought
21 he was out sick.

22 Q. Okay.

23 A. Steve Jones, he was the other one.
24 It was the same thing. He was scheduled to work
25 on Saturday and he didn't -- I have all the

1 Valerie Bainbridge

2 presented with Defendant's Exhibit 13?

3 A. Say that again.

4 Q. When Martha and the union talked to
5 you about Exhibit 13 with respect to the payroll
6 issues, were there any specific people whose names
7 were brought up, even if you don't remember the
8 names now?

9 A. No. Never. I had no idea who she
10 was talking about.

11 Q. If you could look at Defendant's
12 12, which is the audit form. Correct?

13 A. Right.

14 Q. Did you know Tim Collier before he
15 came for this audit?

16 A. No. I never met him.

17 Q. And what, if any, conversations did
18 you have with Mr. Collier regarding the audit?

19 A. Of course I asked him how I did.
20 He said I did well. Then he said to me, why are
21 you stepping down. I said, because Martha, you
22 know -- he asked was it my idea to step down, and
23 I said, no, it was Martha's. And he said she told
24 him it was payroll related, and he said, well, why
25 don't you just give her a little more training

1 Valerie Bainbridge

2 because she balances your store every week. He
3 said everything in here is at his fingertips. The
4 office is immaculate. At that time, I even told
5 him that I thought, you know, it was a matter of
6 just Martha not wanting me in there and I was even
7 thinking of getting a lawyer at that time.

8 Q. You told that to Tim Collier?

9 A. Yes. I asked him if they produced
10 any kind of a document saying that I passed the
11 audit, and he said, yes, and I said, would he send
12 me a copy, and he said, yes, he would e-mail me a
13 copy. He also said that they should transfer me
14 to the Phoenixville store because the girl there
15 doesn't know what she's doing. So I felt that if
16 the auditor thought I was good, why am I being
17 asked to step down.

18 Q. Did you tell Mr. Collier that you
19 were stepping down?

20 A. I told him that Martha asked me to
21 step down. Well, he knew that because she must
22 have told him that. He knew that when he came in
23 the room because he asked me whose idea it was.

24 Q. And the first page of Defendant's
25 12 at the stop it says, ask Tim his opinion of

1 Valerie Bainbridge

2 Q. '06 or '07?

3 A. Did you say '07?

4 Q. I said '07.

5 A. Yes.

6 Q. '07?

7 A. Yes.

8 Q. Do you remember the date of this
9 meeting?

10 A. September 6th.

11 Q. Of 2007. Correct?

12 A. Yes.

13 Q. And who was there?

14 A. At that time the union rep. Carol
15 Waite came into the office and asked me to come
16 into the back, and she didn't know what for, and
17 when we got back there, it was Martha Thourley and
18 then Marianne Donaghue.

19 Q. Tell me everything that was said at
20 this meeting.

21 A. Pretty much Martha just wanted me
22 to step down because of payroll issues. I was
23 very upset. I was just totally caught off guard.
24 When she said that I have paid Shelly Doonan
25 wrong, and of course, if you're taken to a meeting

1 Valerie Bainbridge

2 with no prior warning, I had no remembrance of
3 what I had paid her in June. So I went out into
4 the hall with the union rep.

5 Q. Let's stop there for a second. Is
6 there anything else that you remember being said
7 at this meeting, either by you or anybody else up
8 to this point?

9 A. I don't really remember anything.

10 Q. Okay.

11 A. So Carol Waite took me out in the
12 hall and she said that I should probably step down
13 because if I didn't, they would just keep
14 harassing me until I did. So being very upset, I
15 went in and said, you know, that I would step
16 down. The next morning I came in --

17 Q. Hold on a second. Before we get to
18 the next morning, was there anything else that
19 happened at this meeting after you went back in?

20 A. Well, I know I was very upset. I
21 was crying. I asked for another chance. Marianne
22 Donaghue said she would give me a month trial and
23 Martha looked me in the eye and she said, no, I
24 want you to step down.

25 Q. Okay. Anything else?

1 Valerie Bainbridge

2 A. That's it.

3 Q. What did step down mean? Was that
4 described for you?

5 A. Pardon?

6 Q. Did they tell you what stepped down
7 meant?

8 A. I knew it meant to give my job up.

9 Q. To give the office coordinator job
10 up?

11 A. Yes.

12 Q. Were you told that you could stay
13 at the West Chester store?

14 A. At that time, yes.

15 Q. Were you told that you would have
16 full-time hours?

17 A. Yes.

18 Q. Were you told what it was that you
19 were going to do after you stepped down?

20 A. I guess I was just going -- I was
21 entitled to be the first checker, 7:00 to 3:30.

22 Q. By virtue of your seniority?

23 A. Uh-huh.

24 Q. Is that a yes?

25 A. Yes.

1 Valerie Bainbridge

2 Q. Okay. And was there any discussion
3 at this meeting on September 6th about what duties
4 you would perform until a replacement was found?

5 A. Right. I was to stay there until
6 they bid and someone was given the job.

7 Q. So you were going to stay as the
8 office coordinator until a replacement was
9 selected through the bid process. Is that
10 correct?

11 A. Yes.

12 Q. Did you maintain the salary of the
13 office coordinator?

14 A. Yes.

15 Q. Did you continue to perform the
16 office coordinator duties?

17 A. Yes.

18 MS. SCHNEIDER: Objection.

19 MS. MALLOY: What's the objection?
20 Don't coach her.

21 MS. SCHNEIDER: I'm not coaching.
22 I was going to ask you if you wanted to
23 specify a time period for that question.

24 MS. MALLOY: No.

25 BY MS. MALLOY:

1 Valerie Bainbridge

2 conversations with the union about stepping down,
3 either before or after the September 6th meeting?

4 A. I came back the next morning, found
5 out that I had, in fact, paid Shelly correctly.
6 So I told Carol Waite I didn't want to step down
7 because I had done the payment correctly.

8 Q. What else did you tell Carol?

9 A. Just basically that I didn't want
10 to step down.

11 Q. What did Carol say?

12 A. I don't think she really had an
13 answer for me, other than the fact that you have
14 to step down. She didn't, like, do anything about
15 it.

16 Q. Was that a telephone call with
17 Carol?

18 A. Yes.

19 Q. Any other discussions with the
20 union regarding stepping down?

21 A. No.

22 Q. Did you talk to anybody at the
23 company about your decision to step down?

24 A. I had e-mails. I e-mailed Marianne
25 Donaghue and I e-mailed Marianne Nice and Stacy

1 Valerie Bainbridge

2 Slate.

3 MS. MALLOY: Let's mark this as
4 the next exhibit.

5 - - -

6 (Letter was marked as Defendant's
7 14 for identification by the court
8 reporter.)

9 - - -

10 BY MS. MALLOY:

11 Q. Exhibit 14 is a September 12th
12 letter from Stacy Slate to Carol Waite. While you
13 were employed by Acme, had you ever seen this
14 letter?

15 A. No, I don't think so.

16 Q. While you were ever employed by
17 Acme, or elsewhere, did you ever communicate with
18 the union in writing or by e-mail?

19 A. No.

20 Q. Did you continue to perform the
21 office coordinator duties at West Chester?

22 A. After the September 6th meeting?

23 Q. Yes.

24 A. Yes, until they suspended me.

25 Q. You can add if you want.

1 Valerie Bainbridge

2 A. I did forget at the September 6th
3 meeting I was told not to do the payroll.

4 Q. Not to do the payroll?

5 A. Right. That was going to be given
6 to Katlin Roger.

7 MS. MALLOY: Let's mark this as
8 the next exhibit.

9 - - -

10 (E-mail string was marked as
11 Defendant's 15 for identification by the
12 court reporter.)

13 - - -

14 BY MS. MALLOY:

15 Q. Did you continue to do any payroll
16 after the September 6th meeting?

17 A. In September I know I didn't, and
18 then Katlin, I guess, couldn't work the hours of
19 the schedule for office coordinator because she
20 was going to college. So then it was Tuesday,
21 Wednesday and Thursday she would work 2:00 to
22 10:00, and Friday she had off, so then, because
23 she wasn't really available, then I would have to
24 do it. So, like, Friday at 8:00 a.m. you had to
25 have all of your punches done and everything

1 Valerie Bainbridge

2 because you had to send the week's figures into
3 Gina, the district manager's secretary. So with
4 her not working Friday, that left me to do it.
5 But most of the payroll was done by her. Days
6 that she couldn't, I would do it.

7 Q. Are you able to define for me what
8 payroll you continued to do?

9 A. Basically edit the punches and on
10 Friday get the figures. I think some weeks I
11 would do the vacations and personal holidays and
12 then on Monday I believe she would do the
13 submitting of the payroll.

14 Q. Would you estimate that was 50
15 percent, 60 percent? What percentage of work
16 after September of '07 were you doing that was
17 payroll, compared to what you did before?

18 A. Fifty or less.

19 Q. Exhibit 15 is a string of e-mails
20 with Marianne Donaghue. Correct?

21 A. Right.

22 Q. When did you print this document
23 out?

24 A. Probably at the time I was doing
25 it. It says 9/11.

1 Valerie Bainbridge

2 Q. The date at the bottom, would that
3 show the time it was printed out?

4 MS. SCHNEIDER: Do you mean the
5 date at the very bottom?

6 MS. MALLOY: Yes.

7 THE WITNESS: It said 9/11.

8 BY MS. MALLOY:

9 Q. So that would indicate the date it
10 was printed out?

11 A. Yes.

12 Q. Did you take it home after you
13 printed it out or did you keep it in the office?

14 A. I think I left it in the office for
15 a while and then I took them home.

16 Q. How did you keep documents like
17 this in the office?

18 A. There were sliding drawers under
19 the counter and I think it was on the far right.

20 Q. When did you take all of that stuff
21 home.

22 A. I guess shortly after I did.

23 Q. What did you do with it when you
24 took it home?

25 A. Just kept it in the desk.

1 Valerie Bainbridge

2 Q. With the other stuff in your desk?

3 A. Uh-huh.

4 Q. Is this a yes?

5 A. Yes.

6 Q. Why did you want to talk to
7 Marianne?

8 A. I wanted to explain to her that the
9 pay issue that I was accused of, which apparently
10 was the reason that I was supposed to step down, I
11 hadn't done wrong. I wanted to show it to her so
12 that hopefully she could save my job for me.

13 Q. Why do you believe that you had not
14 done anything wrong with respect to the pay issue?

15 A. Two days that week in June,
16 Thursday and Friday, she was on the schedule four
17 hours each day.

18 Q. This is Shelly?

19 A. Yes. So she worked the four hours,
20 so she got each day, so that's what she got paid.
21 So then the following week she wanted to make up
22 that time with two four-hour vacations. So when I
23 put in for payroll, I put in the 40 hours that she
24 worked, plus eight-hours vacation, four hours for
25 each day that she worked a half a day. I guess

1 Valerie Bainbridge

2 Martha, not realizing what took place, felt I paid
3 her for 48 hours.

4 Q. Was she, in fact, paid for 48
5 hours?

6 A. She was paid for 48 because eight
7 was to make up for the two days that she wanted
8 for those eight hours.

9 Q. Okay.

10 A. She did not -- it was not on the
11 schedule that she was to get four hours and four
12 vacations. So, of course, she punched for four
13 hours, so that's what she got paid, and then later
14 I guess she decided that she wanted to use
15 vacation time for that. So, actually, there was a
16 note from Katlin saying that Shelly wanted the
17 vacation time.

18 Q. And do you know how this issue was
19 brought to Martha's attention?

20 A. I don't know.

21 Q. And what should have Shelly been
22 paid?

23 MS. SCHNEIDER: Objection. She
24 assumes that she shouldn't --

25 MS. MALLOY: Just object as to

1 Valerie Bainbridge

2 form. That's fine.

3 MS. SCHNEIDER: Okay.

4 MS. MALLOY: If you don't
5 understand my question, let me know.

6 THE WITNESS: Maybe explain it
7 again, but I think I know what you mean.

8 BY MS. MALLOY:

9 Q. Why do you believe that what you
10 were told with respect to Shelly was incorrect?

11 A. Because I feel the woman was
12 entitled to the eight hours. I mean, she had
13 eight hours vacation due her. She worked two
14 four-hour days, so she was short eight hours, and
15 I guess she needed the money and she decided to
16 use her vacation, so I put in for it. So I feel I
17 paid her correctly.

18 Q. How did Martha explain to you what
19 she viewed as the problem with respect to Shelly's
20 pay?

21 A. She just said that you can't pay
22 somebody 40 hours a week and an eight-hour
23 vacation day. So I guess she thought that I paid
24 the woman for 48 hours and she only worked 40,
25 which wasn't the case. I paid her for the week

1 Valerie Bainbridge

2 She just treated me like that. Whenever
3 she talked to me, it was always just, like,
4 nasty.

5 BY MS. MALLOY:

6 Q. Other than the one example that you
7 gave, do you remember any --

8 A. The only --

9 Q. Let me finish.
10 Do you remember any other
11 incident?

12 A. No, nothing specific.

13 Q. How did other employees in the
14 store get along with Kim?

15 A. I heard Katlin complaining about
16 her. Katlin would say she didn't like her and
17 that she was nasty. A lot of people felt that she
18 was, I guess, harsh. But I don't recall anybody
19 really fighting with her. There were some people
20 that she really liked, you could tell.

21 Q. Who do you think she really liked?

22 A. John Amarillo for one. He was the
23 frozen food manager.

24 Q. What issues at the time were you
25 having with your grandchildren?

1 Valerie Bainbridge

2 Q. Okay.

3 A. I went to Kim. I told her I had
4 paid Shelly correctly. I didn't realize it was
5 such a shock when they brought this notice in so I
6 stepped down. I said, so since I stepped down, I
7 didn't feel I should step down. She said, Martha
8 said to do it this way or we're going to write you
9 up until you got fired.

10 Q. Okay.

11 A. That was the conversation.

12 Q. Did you repeat to anybody else at
13 the company that conversation you recounted to me?

14 A. Yes. I probably told Yolonda
15 Perez, probably Ryan Douglas and probably Betty
16 Tackett.

17 Q. Did you tell Marianne Nice?

18 A. No, I don't think so. I just had
19 those couple e-mails.

20 Q. The only communications about
21 stepping down after the personal meeting were the
22 e-mail conversations with Marianne Nice and
23 Marianne Donaghue. Correct?

24 A. Right.

25 Q. Did you tell anybody at the union